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09/954,506	09/14/2001	Donald J. Sanders	659/877	8456
7590	04/06/2005	EXAMINER		
PIAZZA CORCORAN, GLADYS JOSEFINA			ART UNIT	
1733			PAPER NUMBER	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/954,506	SANDERS ET AL.
	Examiner	Art Unit
	Gladys JP Corcoran	1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 January 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-32 and 34-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-32 and 34-49 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 18 January 2005 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/23/02, 1/18/05.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

FINAL ACTION

Drawings

1. The replacement drawings filed on January 18, 2005 are not accepted. Figure 2 is objected to.
2. The drawing Figure 2 is objected to as failing to comply with 37 CFR 1.84(p)(4) because
 - a. In Figure 2, the reference characters "37" are pointing to the wrong dotted line (see original figures 1, 2 and 3 and the original Specification). Currently the reference numerals "37" in the proposed replacement sheet are pointing to a dotted line representing the end of panel 100 underneath the fastener member. The correct dotted line for reference number 37 is the line closer to the ends of the garment.
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1, 2, 7-12, 14-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fernfors (GB 2308290) in view of Takao (JP 03176053) as further taken with Datta et al. (US Patent No. 5,476,702), Pohjola (US Patent No. 5,224,405) and or Rajala et al. (US Patent No. 5,556,504).

Fernfors discloses a method of manufacturing a refastenable absorbent garment by moving a continuous absorbent garment subassembly (web 1) in a first machine direction, wherein said continuous absorbent garment subassembly comprises a continuous front body panel web (waistband portion 2 at either edge; sheets 28- back sheet or top sheet or liner), a continuous rear body panel web (waistband portion 2 at

either edge; sheets 28- back sheet or top sheet or liner) and a plurality of discrete crotch portions (absorbent core 4) spaced along said first machine direction (arrow A) and extending between said continuous front and rear body panel webs (page 5), and applying fastener members to one of said continuous front and rear body panels (strips 5, 8 and 13).

Applicant has newly amended claim 1 to include that the front body panel has a terminal crotch edge and a terminal waist edge, that the rear body panel web has a terminal crotch edge and a terminal waist edge, that the terminal crotch edges of the panels are spaced apart in a cross-direction, and that the crotch portions are across the spaced apart terminal crotch edges of the panels and have opposite terminal ends spaced in the cross direction and spaced from the terminal waist edges of the panels. The body panels in Fernfors have terminal waist edges and the crotch portions are spaced from the terminal waist edges of the panels, however, there is no disclosure of terminal crotch portions of the panels. The panels in Fernfors appear to be continuous in the cross direction with cut-out portions (7) for the legs. Takao discloses it is known to provide the front and rear waist panels with terminal crotch edges that are spaced apart in the cross direction and that crotch portions are across the spaced apart terminal crotch edges of the panels in order to avoid the cost of forming cut-outs in the prior art continuous panels (see figures and page one of translation). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of manufacturing refastenable absorbent garments as shown by Fernfors with

the panels having terminal crotch edges in the claimed configuration in order to avoid the cost of forming cut-outs in continuous panels as shown by Takao.

While Fernfors discloses providing a plurality of fastener members to the web material, there is no particular disclosure on the specifics of applying the fastener material to the web. It is considered well known in the art of forming absorbent articles to apply fastener material to an absorbent garment web by moving fastener material in a second direction from the web, cutting said fastener material to define a plurality of fastener members, successively rotating each of said fastener members about an axis substantially perpendicular to said second machine direction and applying each of said rotated fastener members to one of said continuous front and rear body panels. For example, Datta discloses an example of applying fastener assemblies to a web by providing fastener material in a machine direction, cutting the material into a plurality of fasteners, rotating the fasteners about an axis perpendicular to the machine direction and then applying the rotated fasteners to the web (column 11, lines 42-50; column 12, lines 26-60). Pohjola also discloses an example of providing fastener material, cutting the material into a plurality of fasteners, rotating the fasteners along an axis perpendicular to the machine direction and applying the fasteners to a web (column 2, lines 40-64). Rajala as discussed above also discloses an example of applying fasteners to a web by providing fastener material, cutting the material into a plurality of fasteners, rotating the fasteners along an axis perpendicular to the machine direction and then applying the fasteners to the web. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of forming the

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absorbent garment as shown by Fernfors by supplying the fastener strips through a convention application process such as by cutting fastening material and rotating each fastener before applying in order to apply the fasteners in the desired configuration as is considered known in the art as exemplified by Datta, Pohjola and/or Rajala.

As to claim 2, Fernfors discloses applying multiple strips, therefore at least two strips are considered to be moved in the second machine direction. As to claims 7 and 8 and 9, Fernfors discloses applying multiple strips of fastening material, therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to cut each of the strips and rotate each of the streams of fasteners to form a plurality of fastening systems as is considered well known and further exemplified by Datta and/or Pohjola for the reasons as discussed above. As to claim 10, the method of forming such articles is in a continuous manner where all steps are formed simultaneously, therefore, each of the streams of fastener members would be simultaneously rotated. As to claim 11, the fastening strips in Fernfors are successively applied. As to claim 12, Fernfors discloses applying multiple strips of fastening material, in particular strip 8 and strip 13. It is known when applying fastening strips to webs, to apply multiple strips by rotating simultaneously and successively applying multiple pairs of strips. For example, Pohjola discloses rotating multiple pairs of strips simultaneously and applying multiple pairs of strips successively across the web. It would have been obvious to one of ordinary skill in the art at the time of the invention to form the absorbent garments as shown by Fernfors by applying the fastening strips by rotating simultaneously in pairs and applying successively as shown by Pohjola. As to claim 14, Fernfors discloses

successively applying fastener strips therefore the fasteners in the first stream are applied and then the fasteners in the second stream are applied downstream from the first application point. As to claims 15 and 16, Fernfors discloses the fastener members (strip 8) are releaseably engaged to one of the webs (page 7, lines 1-5) and then base portions are attached to one of the webs (welded portions page 8, lines 16-20). As to claim 17, Fernfors discloses providing cross cuts spaced along the webs in the machine direction (intended separation 6: page 6; line 16: page 9). As to claim 18, the fastening portion of strip 8 is applied to one of the sides of the perforation line 6 and the welded portion of the strip 8 is applied to the other side of the perforation line 6. As to claim 19, the cross cuts are made on the front panel web and the fastener members are considered to be applied to the front panel web. As to claim 20, the cross cut is a perforated cut (page 6). As to claim 21, the cutting is along both panel webs and forms a plurality of absorbent garments (page 9). As to claim 22, Fernfors discloses providing a plurality of landing members spaced along the machine direction (strips 5). As to claim 23, the panel web has a plurality of elastic elements extending along the machine direction (pages 5 and 6 and figures). As to claim 24, the elastic members in the landing zones are deactivated (not adhered areas in region where applying the strips; page 6, lines 10-18). As to claim 25, the landing members (strips 5) are applied at the landing zones. As to claims 26 and 27 and 28, in Fernfors the crotch potions are folded to face the webs and cross seams are formed by attaching the webs and then cutting the side seams (page 7, lines 25 to page 9, line 7). As to claim 29, Fernfors discloses an impervious outer cover with leg openings (page 5 and figures) it is considered

conventionally well known to provide retention portions on crotch portions of absorbent articles and to cut the leg openings between the retention portions. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide retention portions on the crotch portions of the absorbent article in Fernfors and to cut the leg openings between the retention portions as is considered conventionally well known in the art. As to claim 30, the machine direction of the webs are horizontal and it is well known that the machine direction of the fastener material is horizontal as well, see for example, Datta. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the machine directions of the materials forming the absorbent article in Fernfors as parallel as is considered well known in the art and further exemplified by Datta, only the expected results would be attained. As to claim 31, Pohjola discloses the fastener materials are rotated approximately 90 degrees.

7. Claims 2, 7-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fernfors (GB 2308290) in view of Takao (JP 03176053) further in view of Datta et al. (US Patent No. 5,476,702), Pohjola (US Patent No. 5,224,405) and/or Rajala et al. (US Patent No. 5,556,504) as applied to claims 2 and 12 above, and further in view of Widlund et al. (EP 0755238).

Fernfors discloses applying the strip 8 with two fastener areas affixed to the strip. It is known to provide two separate strips of fastener material as an equivalent alternative to providing one strip with two fasteners. For example, Widlund discloses applying two separate fastening strips as an alternative to one strip with two areas to absorbent webs (column 7, lines 35-45). It would have been obvious to one of ordinary

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skill in the art at the time of the invention to provide the method of forming the absorbent article as shown by Fernfors by providing two strips of fastener material as a well known equivalent alternative to applying one strip of fastener material as further exemplified by Widlund.

As to claims 7 and 8, it would have been obvious to one of ordinary skill in the art to cut and rotate the strips of fastener material similarly as discussed above in order to properly place the material on the web. As to claim 9, the two streams of the strips provide a plurality of fastening systems, with one fastener from each strip. As to claim 10, it would have been obvious to one of ordinary skill in the art at the time of the invention to simultaneously rotate the fastener members in each of the systems particularly in view of Rajala which shows simultaneous rotation of two streams. As to claim 11, the systems are successively applied. As to claim 12, as discussed previously, it would have been obvious to successively apply pairs of fastener members with a fastener member from each stream and rotate the pairs simultaneously as exemplified by Rajala. As to claim 13, Fernfors discloses providing tab members (19) on the outer edges of the fastening areas that face away from each other. As to claim 14, while Rajala shows it is known to simultaneously apply pairs of fastener members, it would have been well within the purview of one of ordinary skill in the art at the time of the invention to rotate each stream of each pair of streams on separate rotating machines as it is known to rotate single streams, with one stream downstream from the other, only the expected results would be attained.

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8. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fernfors (GB 2308290) in view of Takao (JP 03176053) further in view of Datta et al. (US Patent No. 5,476,702), Pohjola (US Patent No. 5,224,405) and/or Rajala et al. (US Patent No. 5,556,504) (optionally in view of Widlund et al. (EP 0755238)) as applied to claims 2 and 12 above, and further in view of Roessler et al. (US Patent No. 5,399,219) and/or Justmann (US Patent No. 5,900,101).

Fernfors discloses providing multiple strips with fasteners on the absorbent garment web. Optionally, Widlund discloses providing two fastener materials as an alternative to one. It is well known in the art to provide multiple strips of fasteners to continuous absorbent webs by providing a fastener material in a machine direction and cutting the material in order to form the two strips of fastener material where the strips are separated, serpentine cut along the machine direction in order to form a plurality of fasteners with tabs, and rotated outwardly to provide the tabs on each strip to face outward in opposite directions. For example, both Roessler and Justmann show methods of applying fasteners to continuous absorbent garment webs by cutting a fastener material with a serpentine cut to form two strips, separating the strips in a cross machine direction and rotating the strips along an axis parallel to the machine direction in order to provide the strips facing outward in opposite directions prior to applying to absorbent garment webs. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of forming the absorbent garment as shown by Fernfors, Datta, Pohjola, and/or Rajala by providing a strip of fastening material, cutting in a serpentine fashion to form two strips, separating and rotating the

strips in order to properly apply the strips to the continuous web as is considered well known in the art to reduce the material wasted and the method steps as compared to forming two separate strips as is considered well known in the art and exemplified by Roessler et al. and/or Justmann.

9. Claims 32, 34-40, 48, 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rajala et al. (US Patent No. 5,556,504) in view of Roessler et al. (US Patent No. 5,399,219) and/or Justmann (US Patent No. 5,900,101).

Rajala discloses a method for manufacturing a refastenable absorbent garment by moving a base web in a first direction (134), moving at least two strips of fastener material in a second direction (column 1, lines 25-30; column 15, lines 40-55), cutting the at least two strips of fastener material to define at least a first and second stream of a plurality of fastener members (column 3, lines 45-50), successively rotating each of said fastener members about an axis substantially perpendicular to said second machine direction in each of said first and second streams, and applying each of said rotated fastener members in each of said first and second streams to said base web, wherein said fastener members in said first stream are sequentially located relative to said fastener members in said second stream on said base web in an alternating relationship along said first machine direction (see figures and description of figures 8-11).

It is well known in the art to provide multiple strips of fasteners to webs by providing a fastener material in a machine direction and cutting the material in order to form the two strips of fastener material where the strips are separated, and serpentine

cut along the machine direction in order to form a plurality of fasteners with tabs. For example, both Roessler and Justmann show methods of applying fasteners to continuous absorbent garment webs by cutting a fastener material with a serpentine cut to form two strips and separating the strips in a cross machine direction in order to provide the strips prior to applying to webs. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of forming the absorbent garment as shown by Rajala by providing a strip of fastening material, cutting in a serpentine fashion to form two strips and separating the strips in order to properly apply the strips to the continuous web as is considered well known in the art to reduce the material wasted and the method steps as compared to forming two separate strips as is considered well known in the art and exemplified by Roessler et al. and/or Justmann.

Claims 34 and 35 are met as discussed above as exemplified by Roessler and/or Justmann. As to claim 36, each set of fasteners are considered to be a plurality of fastening systems and the first and second streams of fastening systems are consecutively positioned on the base web in alternating sequence. As to claim 37, the systems are simultaneously rotated. As to claim 38, each system is successively applied. As to claim 39, the pairs of fastener members form each stream are simultaneously rotated and successively applied. As to claim 40, while Rajala shows it is known to simultaneously apply pairs of fastener members, it would have been well within the purview of one of ordinary skill in the art at the time of the invention to rotate each stream of each pair of streams on separate rotating machines as it is known to

rotate single streams (in other embodiments), with one stream downstream from the other, only the expected results would be attained. As to claim 48, the machine direction of the fasteners as they are rotated is parallel to the machine direction of the web. As to claim 49, the fasteners are rotated 90 degrees.

10. Claims 41, 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rajala et al. (US Patent No. 5,556,504) in view of Roessler et al. (US Patent No. 5,399,219) and/or Justmann (US Patent No. 5,900,101) as applied to claim 32 above, and further in view of Widlund et al. (EP 0755238).

Rajala does not specifically disclose the particulars of the base web in the absorbent garment.

As to claim 41, it is well known in the absorbent article art to cut base webs in the cross machine direction in order to provide individual absorbent garments. Widlund discloses an example of cutting base webs (column 5, lines 40-45) into individual garments after applying pairs of fastener materials (column 7, lines 35-45). It would have been obvious to one of ordinary skill in the art at the time of the invention to form the absorbent product as shown by Rajala by cutting the base web in the cross machine direction in order to form individual garments as is considered well known in the art and further exemplified by Widlund.

As to claim 45, it is well known in the art to apply fastening pairs to base webs with a plurality of elastic elements extending in a first machine direction. For example, Widlund discloses applying pairs of fastener materials to a base web with a plurality of elastic materials in the machine direction (column 6, lines 44-50). It would have been

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obvious to one of ordinary skill in the art at the time of the invention to form the absorbent product as shown by Rajala by providing the base web with a plurality of elastic elements in the machine direction in order to provide elasticity to the final product as is well known in the art and further exemplified by Widlund.

11. Claims 32, 41-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fenfors (GB 2308290) in view of Widlund et al. (EP 0755238) and Rajala et al. (US Patent No. 5,556,504) as further taken with Roessler et al. (US Patent No. 5,399,219) and/or Justmann (US Patent No. 5,900,101).

Fenfors discloses a method of forming a refastenable absorbent garment by applying a fastener strip (8) to a base web (1). The fastener strip in Fenfors is a strip with two fastening areas. Widlund discloses it is known in the art to provide two separate fasteners as an equivalent alternative to applying one strip with two fastener areas on a base web (column 7, lines 35-45). It would have been obvious to one of ordinary skill in the art at the time of the invention to form the refastenable absorbent garment as shown by Fenfors by applying two fastener strips as an equivalent alternative to applying one fastener with two fastening areas as shown by Widlund.

Neither Fenfors nor Widlund disclose the particulars of applying the fastener material to the web. It is known in the art to apply fastener materials to base webs for absorbent articles by providing two strips of fastener material, cutting the material into individual fasteners, rotating the fastener pairs and then applying to the web. For example, Rajala discloses a method for manufacturing a refastenable absorbent garment by moving a base web in a first direction (134), moving at least two strips of

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fastener material in a second direction (column 1, lines 25-30; column 15, lines 40-55), cutting the at least two strips of fastener material to define at least a first and second stream of a plurality of fastener members (column 3, lines 45-50), successively rotating each of said fastener members about and axis substantially perpendicular to said second machine direction in each of said first and second streams, and applying each of said rotated fastener members in each of said first and second streams to said base web, wherein said fastener members in said first stream are sequentially located relative to said fastener members in said second stream on said base web in an alternating relationship along said first machine direction (see figures and description of figures 8-11). It would have been obvious to one of ordinary skill in the art at the time of the invention to form the refastenable absorbent garment as shown by Fenfors and Widlund by applying fastening material pairs to the base web in a manner known in the art as exemplified by Rajala in order to properly apply the pairs to the web during the manufacturing process.

It is well known in the art to provide multiple strips of fasteners to webs by providing a fastener material in a machine direction and cutting the material in order to form the two strips of fastener material where the strips are separated, and serpentine cut along the machine direction in order to form a plurality of fasteners with tabs. For example, both Roessler and Justmann show methods of applying fasteners to continuous absorbent garment webs by cutting a fastener material with a serpentine cut to form two strips and separating the strips in a cross machine direction in order to provide the strips prior to applying to webs. It would have been obvious to one of

ordinary skill in the art at the time of the invention to provide the method of forming the absorbent garment as shown by Fenfors, Widlund, and Rajala by providing a strip of fastening material, cutting in a serpentine fashion to form two strips and separating the strips in order to properly apply the strips to the continuous web as is considered well known in the art to reduce the material wasted and the method steps as compared to forming two separate strips as is considered well known in the art and exemplified by Roessler et al. and/or Justmann.

As to claim 41 Fenfors discloses successively cutting the base web in the cross direction spaced in the machine direction (lines of weakening 6 and line 16). As to claim 42, each of the fastening strips (8) in Fenfors have a base portion (surplus 9) and a fastening portion (attachment means 18) applied on opposite sides of the cross direction cuts (lines of weakening 6). As to claim 43, the cross direction cut is a perforated cut (lines of weakening 6). As to claim 44, the base web comprises a plurality of landing members (5) spaced along the first machine direction. As to claim 45, the base web comprises a plurality of elastic elements extending in the first machine direction (page 6, lines 11-18). As to claim 46, the plurality of elastic elements are deactivated in the landing zones successively spaced along the first machine direction (none adhered areas page 6, lines 11-18). As to claim 47, landing members (5) are successively attached to said base web at said successively spaced landing zones (page 6).

Double Patenting

12. It is noted that Applicant has submitted a Terminal Disclaimer filed on January 18, 2005 to overcome double patenting rejections based on Patent Nos. 6,743,321 and 6,682,626. The Terminal Disclaimer is currently being processed, at such time it is approved, Applicant will be notified and the obviousness-type nonstatutory double patenting rejections based on 6,743,321 and 6,682,626 will be withdrawn.

13. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

14. Claims 3, 5, 7, 17-25, 30, 31, 33, 35, 41-49 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-29 of U.S. Patent No. 6,682,626 in view of the references as applied above. The Patent discloses the limitations except for those as described in the references above, and it would have been obvious to one of ordinary skill in the art to perform the method steps in the Patent with well known method steps for forming absorbent garments as shown by the references.

15. Claims 1-49 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-39 of U.S. Patent No. 6,743,321 in view of the references as applied above. The Patent discloses the limitations except for those as described in the references above, and it would have been obvious to one of ordinary skill in the art to perform the method steps in the Patent with well known method steps for forming absorbent garments as shown by the references.

Response to Arguments

16. Applicant's arguments filed January 18, 2005 have been fully considered but they are not persuasive.

Applicant argues on page 15 that Fernfors does not meet the newly added limitations to claim 1. These limitations are met by Takao as discussed above.

Applicant argues on page 16 that there is no suggestion to combine the references because the fastener strips in Fernfors requires a surplus loop of material while the references Datta, Pohjola, or Rajala do not disclose or suggest an apparatus or method for engaging and transferring a strip having a loop of surplus material and that the fastener strip does not have any characteristics requiring it to be oriented in any particular fashion. The fact that the fastener in Fernfors has a loop of surplus material is irrelevant to the obviousness statement of how it is known in the art to apply fastener materials to base webs. As to characteristics the may require the fastener to be rotated, such are not required by the references Datta, Pohjola, or Rajala, therefor this argument is not persuasive.

Applicant argues on pages 17-18, there is no suggestion to combine Rajala with Roessler or Justmann. Rajala discloses providing two streams of fastener material in the direction as claimed to be cut and rotated and applied to a base web. The rejection is based on the fact that it is well known in the art to provide multiple strips (streams) of fasteners (fastener material) to webs by providing a fastener material in a machine direction and cutting the material in order to form the two strips of fastener material where the strips are separated, and serpentine cut along the machine direction in order to form a plurality of fasteners with tabs. Roessler and/or Justmann show examples of such in the art. This method of providing two streams of fasteners from one web is utilized in order to conserve materials and costs of forming two separate streams of fastener material. It would have been obvious to one of ordinary skill in the art at the time of the invention to perform the method of adhering two streams of fastener material to a base web as shown by Rajala by providing the two streams from one web that is cut as is considered well known in the art in order to conserve materials, space, energy, and improve efficiency in the process as exemplified by Roessler and/or Justmann. Only the expected results would be attained.

It is noted that Applicant has not traversed the well known statements of the rejections in the prior Office action, therefore such statements are considered acquiesced by Applicant to be Admitted Prior Art (see MPEP § 2144.03).

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gladys JP Corcoran whose telephone number is (571) 272-1214. The examiner can normally be reached on M-F 8am-5:30pm (alternate Fridays off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gladys JP Corcoran
Primary Examiner
Art Unit 1733

GJPC